



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue, Suite 900
Seattle, WA 98101-3140

OFFICE OF
ENVIRONMENTAL
CLEANUP

April 10, 2013

CERTIFIED MAIL—RETURN RECEIPT REQUESTED

Mr. Bob Wyatt
Chairman
Lower Willamette Group
c/o NW Natural
220 NW 2nd Avenue
Portland Oregon 97209

**Re: Notice of Assessment and Demand for Payment of Stipulated Penalties;
Administrative Settlement Agreement and Order on Consent for Remedial
Investigation and Feasibility Study; CERCLA Docket No. 10-2001-0240**

Dear Mr. Wyatt:

This letter is notifying the Respondents to the above referenced Administrative Settlement Agreement Order on Consent (AOC) that in accordance with Section XIX of the AOC, the EPA is assessing a stipulated penalty. This penalty is being assessed for non-compliance with the AOC in 2012 and has been reduced substantially in consideration of the good faith attempts of the Respondents to comply with the AOC.

On June 22, 2012, the EPA notified Respondents to the Portland Harbor Administrative Settlement Agreement and Order on Consent (AOC) that they were in non-compliance for submittal of a Baseline Human Health Risk Assessment (BHHRA) of unacceptable quality and that they failed to fully address all of EPA's comments. That notice began accrual of stipulated penalties provided for in Section XIX of the AOC. Respondents disputed the non-compliance determination and on December 6, 2012, Daniel Opalski, dispute official, upheld EPA's determination. An acceptable BHHRA was submitted by the Respondents on February 11, 2013, which stopped the accrual of penalties.

This letter is notifying the Respondents that EPA is assessing a stipulated penalty in the amount of \$125,500 regarding the deficient BHHRA. This penalty is based on the stipulated amounts in the AOC [Section XIX, paragraph 4] for 45 days after EPA's June 22, 2012 Notice Of Non-Compliance. The total accrued penalty was over \$1,000,000, however; the EPA has decided to waive a significant portion of the accrued penalties for a majority of the time the dispute process occurred and following the dispute decision due to the good faith attempts Respondents made to comply with the AOC.

The EPA's demand is the final piece to the action started on June 22, 2012, and we look forward to putting this episode behind us. We appreciate that the group worked diligently to finalize the BHHRA. We are encouraged that a more cooperative working relationship has been established since resolution of the BHHRA, and we look forward to continuing on this path to finalize the Baseline Ecological Risk Assessment, Remedial Investigation and Feasibility Study Reports.

In accordance with the AOC Section XIX, Paragraph 1, all penalties are due and payable to the EPA within 30 days of Respondent's receipt of this demand for payment, paid by check with the information noted in Paragraph 1; however, there are new addresses for penalty payments. If U.S. Postal Service is used, please send the payment to:

US Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, MO 63197-9000

If the check is sent by express mail, UPS, or federal express, send the payment to:

U.S. Bank
Government Lockbox 979077 US EPA Fines & Penalties
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, MO 63101
314-418-1028

If you have questions or wish to discuss this matter please call me at (206) 553-6523 or have your attorney contact Lori Houck Cora, Assistant Regional Counsel at (206) 553-1115.

Sincerely,

A handwritten signature in dark ink, appearing to read "Lori Cohen", with a long horizontal flourish extending to the right.

Lori Cohen, Associate Director
Office of Environmental Cleanup

cc: Mr. Jim Anderson
Oregon Department of Environmental Quality

Mr. Rob Neely
National Oceanic and Atmospheric Administration

Mr. Ted Buerger
U.S. Fish and Wildlife Service

Mr. Brian Cunningham
Confederated Tribes of the Warm Springs Reservation of Oregon

Ms. Rose Longoria
Confederated Tribes and Bands of the Yakama Nation

Mr. Michael Karnosh
Confederated Tribes of the Grand Ronde Community of Oregon

Mr. Tom Downey
Confederated Tribes of the Siletz Indians

Mr. Audie Huber
Confederated Tribes of the Umatilla Indian Reservation

Ms. Erin Madden
Nez Perce Tribe

Mr. Greg Ulirsch
ATSDR

Ms. Lori Houck Cora, ORC

Ms. Gail Akyiama, ECL

Ms. Kristine Koch, ECL

Mr. Chip Humphrey, ECL